THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 26284 of 2006

Order:

Assailing the award dated 13.06.2006, passed by the Labour Court, Warangal, in I.D. No. 90 of 2003, published in G.O. Rt.
No. 1629, dated 27.07.2006, the petitioner filed the present writ petition.

The petitioner claims that he was orally appointed as N.M.R. in the month of December 1990 by respondents 1 and 2 to work in Mulugu Sub-Division of Warangal Division on daily wages at the S.S.R. rates fixed by the District Collector, and he worked for more than 240 days continuously. He states that when the respondents without issuing any notice, orally terminated the services of the N.M.Rs., including his services on 01.04.1994, himself and others filed writ petition in W.P. No. 7901 of 1994, and this Court disposed of the same directing them to approach the Labour Court. The petitioner states that due to financial difficulty, he could not approach the Labour Court immediately, and when the cases of similarly situated persons, who approached the Labour Court and got favourable orders, were being considered for reinstatement, which in fact, were considered positively, he made several representations requesting the respondents to extend the same benefit to him also, but as no action was taken by the respondents thereon, he raised an industrial dispute in I.D. No. 90 of 2003, and the Labour Court, by reason of the award impugned herein, rejected the claim of the petitioner.

Heard the learned counsel for the petitioner, and the learned Government Pleader for Roads and Buildings.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

As can be seen from the award of the Labour Court, the petitioner to prove his claim that he worked as N.M.R. under respondents 1 and 2 for more than 240 days in the year preceding to the date of his termination i.e., 01.04.1994, mainly relied on the letters Exs.W1 to W5 addressed by the Deputy Executive Engineer to the Executive Engineer. Though the letters Exs.W1 to W5 indicate that the Deputy Executive Engineer has been addressing letters to the Executive Engineer from 01.04.1992 onwards for ratification of his action and also to accord permission for engaging the petitioner and others as labours, the fact remains, the Executive Engineer never accorded permission and never ratified the action of the Deputy Executive Engineer. Further, the letter correspondence do not disclose that the petitioner was directly engaged by respondent Nos.1 and 2, and on the other hand, the correspondence discloses that the petitioner along with others was engaged by the contractor for petty works such as jungle clearance etc., and payments were made by the contractors in pursuance of the proceedings issued by the Executive Engineer. On

the other hand, the documentary evidence, namely the cash books, nominal muster rolls for the relevant period i.e., from 1990 to 1994 and G.O. Ms. No.143, dated 16.03.1984, produced by the respondents strengthens their contention that the petitioner never worked under them in any cadre, much less in the cadre of N.M.R., for nowhere the name of the petitioner is found. Further, a perusal of G.O. Ms. No. 143, dated 16.03.1984, clearly indicates that there was a ban on recruitment of N.M.R workers with effect from 16.03.1984, and in view of the prevalence of ban, the petitioner cannot claim that he worked as N.M.R. with effect from December, 1990. Thus, considering the said circumstances, the Labour Court held that since the Deputy Executive Engineer without obtaining permission has himself assumed powers and engaged the labourers, and as such, the appointments made by him, should be treated as illegal appointments. The Labour Court further held that since the petitioner never worked with the respondents, there was no relationship of employee and employer. This apart, it found that the petitioner raised the industrial dispute after lapse of 10 years from the date of his alleged termination. The findings arrived at by the Labour Court being based on proper appreciation of evidence, no exception can be taken thereto. In that view of the matter, the petitioner cannot be allowed to contend that his termination is illegal, and more so when there is no written appointment order nor written termination order.

The award of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, do not call for interference, for the petitioner failed to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 28th December, 2006

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